

REMARKS

By this amendment Applicants have amended claim 11 to include the limitations of claim 12 and cancelled claim 12. Since claim 12 was said to be allowable if rewritten in independent form, claim 11 is now allowable. Claims 13 and 14 depend from claim 11 and are also allowable.

Applicants have also amended claim 25 to include the limitations of claim 26 and cancelled claim 26. Since claim 26 was said to be allowable if rewritten in independent from, claim 25 is now allowable.

Claims 26 through 29 have been cancelled.

Claims 1 and 15 are the other pending independent claims neither of which has been amended. Claim 1 is directed to a cord connection device and claim 15 is directed to a roll-up shade having the cord connection device as claimed in claim 1. This cord connection device has a coupling member and a receptive member. The receptive member has a first section configured to receive the coupling member in a manner to provide a connection such that when a selected force acts on a cord attached to either the coupling member or the receptive member, the coupling member will separate from the receptive member. The receptive member must also have a second section configured to receive the coupling member in a manner to provide a connection such that the coupling will not separate from the receptive member. Finally, the coupling member must be attached to one of the sections of the receptive member.

The Examiner has rejected claims 1 and 15 as being anticipated by United States Published Patent Application 2003/0150567 of Hyman et al. That published application discloses a releasable cord apparatus and breakaway end portion for window treatments. The

Examiner has relied upon the embodiment shown in Figures 2, 3 and 4 of the Hyman reference which has a coupling member 30 and a receptive member 26. The receptive member, shown most clearly in Figure 4, has a flat "deformable first end 46 and a second end 40 having the recess 38." (Page 3, paragraph 0042, lines 3-4). The connected member is a generally V-shaped element which "should also be able to slightly deform" (Page 3, paragraph 0040, line 5). At page 3, paragraph 0044, Hyman et al. teach that "The apparatus is designed such that the connective member releases from the receptive member when a force is applied to a cord. * * *

Therefore, the apparatus is designed such that **any force** sufficient to cause strangulation or other injury to pets or children will cause the connective member to release from the receptive member." (emphasis added). There is no teaching or suggestion in the Hyman reference that the connective member or the receptive member be configured such that the coupling member and the receptive member can be connected in a way such that the coupling member will not separate from the receptive member. Indeed, the teaching of the reference is that **the two pieces must separate** when subjected to **any force** sufficient to cause strangulation or other injury to pets or children.

In contrast, the cord connection device in claims 1 and 15 is required to have a structure such that when the coupling member is connected to that structure "the coupling member will not separate from the receptive member." Despite the clear teaching of the Hyman reference that the coupling member must separate from the receptive member the Examiner has theorized a manner in which the coupling member and receptive member disclosed in Figure 4 of the reference could be connected together so that they would not separate from one another. This approach is contrary to the teaching of the reference as well as the case law. The fact that something could

be done is not a proper basis for rejecting a claim particularly where the reference itself teaches against doing so. See, for example, In re Imperato, 486 F.2d 585, 587, 179 USPQ 730, 732 (CCPA 1973). Furthermore, even if the coupling member and receptive member were positioned as theorized by the Examiner, the two pieces would separate when subjected to a force.

The Examiner has theorized a situation in which a cord is attached to one leg of the coupling member 30 and then extends through the opening in the planar section. According to the Examiner when the coupling member 40 is placed on the flat surface with the cord extending through the hole, the coupling member will not separate from the receptive member. However, that conclusion is contrary to the teachings of the cited reference. First, Hyman et al. disclose that both the coupling member and the planar section 26 of receptive member are "deformable." See paragraphs 00035 and 00036. Consequently, if the coupling member is placed as theorized by the Examiner and a force sufficient to cause strangulation or other injury to pets or children acts on a cord extending through the hole in the flat portion of the receptive member, the receptive member or the coupling member, or both, will deform to enable the coupling member to slip through the hole in the receptive member. Then, the coupling member will be separated from the receptive member

Second, one skilled in the art reading the Hyman reference would not position the two members as theorized by the Examiner. Figure 2 of Hyman shows the receptive member 26 positioned on the top surface of a headrail such that the planar section lays on top of the headrail. When the receptive member is attached to the headrail in this way it is not possible to position the coupling member on the planar surface of the receptive member as theorized by the

Examiner with a cord passing from the coupling member through the hole in the planar portion. This is true because the coupling member 40 must also be able to fit into the slot 38 at one end of the coupling member. When the coupling member is in slot 38, the cord would be across the rear face of the headrail as shown in Figure 3, right hand side. If the coupling and cord are able to be positioned as shown in Figure 3, then one could not place the coupling member on top of the planar surface of the receptive member with the cord passing through the hole in the receptive member. It is also not possible to insert the coupling member through the hole such as to be on the underside of the coupling member because the underside of the flat portion rests on top of the top surface of the headrail.

For a claim to be obvious from a reference there must be some teaching or suggestion in the reference to create the claimed invention. There is no teaching or suggestion in the Hyman reference of providing a connection between the coupling member and the receptive member such that the coupling member will not separate from the receptive member as required by applicants' claims. It is only through impermissible hindsight that the Examiner can conceive of a modification to the apparatus disclosed by Hyman, which might arguably be within claim 1. But, even that modified structure is which is not practical and contrary to the teaching of Hyman that the coupling member and receptive member must separate. Moreover, even if such a modification could be made and operated as proposed, there is no teaching or suggestion in Hyman or motivation in Hyman to make the change. That is true because Hyman et al. teaching that "the apparatus is designed such that the connective member releases from the receptive member when the force is applied to the cord." (Paragraph 0044). Hence, the cord connection device of claim 1 and the roll-up shade of claim 15 are patentable over the Hyman reference.

Application No. 10/748,571
Amendment dated October 31, 2005
Reply to Office Action of September 22, 2005

Claims 2 through 10 which depend from claim 1 are patentable because claim 1 is patentable.

Claims 16 through 24 depend from claim 15 and are patentable because claim 15 is patentable.

Accordingly reconsideration and allowance of all pending claims are respectfully
requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lynn J. Alstadt", is written over a horizontal line.

Lynn J. Alstadt
Registration No. 29,362
BUCHANAN INGERSOLL PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, Pennsylvania 15219-1410
Attorney for Applicant

(412) 562-1632